

G. Planning Area, Map I, II, III, and Land Use Changes Related to the 2016 Blue Line Amendments for Private Properties

Background

The Blue Line was created by voters in 1959 as part of the city Charter to prohibit city water from being provided above a certain location. The goal was to protect the foothills backdrop by discouraging new development in this natural area. The Blue Line was set along a specific elevation which did not recognize parcel lines.

In 2016 Boulder voters approved the clarification and amendment of “blue line” water provision. The purpose of the ballot measure was to more accurately describe the location of the Blue Line in a manner that continues to prevent further development on the mountain backdrop but does not exclude existing developed areas. The amendments intended to recognize existing water service agreements, recognize existing development and not expand opportunities for additional or expanded development.

Regarding properties divided by the line, the city will provide water service as follows:

- The water service shall be to the entire building that is within the existing footprint and square footage on Nov. 8, 2016,
- No additional water service shall be supplied west of the line for such property,
- No portion of the building with water service west of the line shall be expanded beyond the existing building footprint or floor area.

Area I, II, III Map Amendments to Reflect Voter-approved Blue Line Amendments

Voter-approved changes to the location of the Blue Line resulted in several areas where changes should be made to Boulder Valley Comprehensive Plan planning areas (*see BVCP Figure 1-1, Policy 1.12 Definition of Comprehensive Planning Areas I, II, III, Policy 2.07 Delineation of Rural Lands*). These changes are being proposed to ensure that the planning areas and their provision of city water services are in alignment with the new location of the Blue Line. The BVCP defines several “Planning Areas.” These indicate the location and extent of urban development and services provided in the Boulder Valley. The BVCP defines:

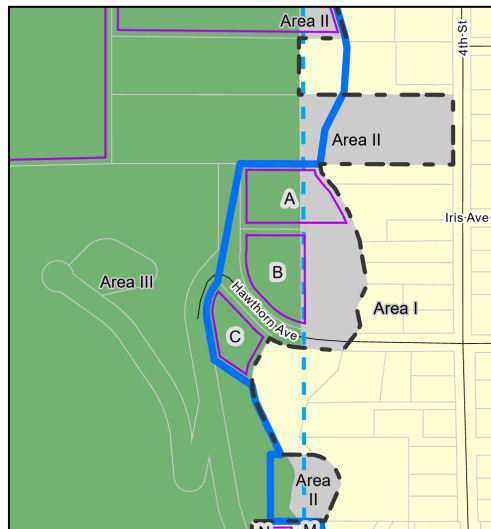
- Area I as that area within the City of Boulder city limits where city services are provided.
- Area II as the area now under county jurisdiction where annexation to the city can be considered consistent with plan policies.
- Area III – Rural Preservation Area as under county jurisdiction where the city and county intend to preserve existing rural land uses and character.
- Area III – Annex as areas within the city limits where the city and county intend to preserve existing rural land uses and character.

STAFF RECOMMENDATION

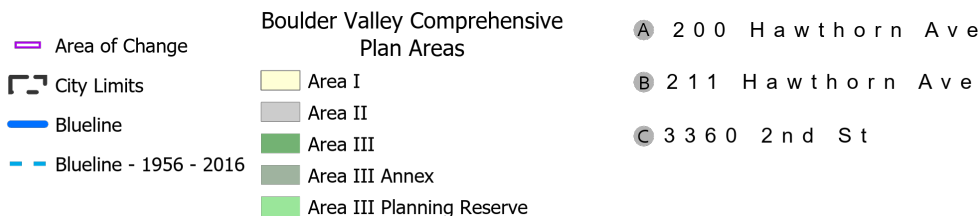
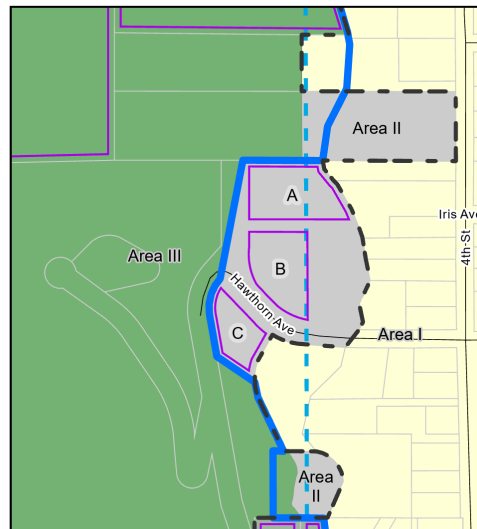
Description of Location for Service Area Expansions

Location	Recommendation	Description
a. 200 Hawthorne b. 211 Hawthorne c. 3360 2 nd Street	Change from Area III Rural Preservation to Area II Change BVCP Land Use to Low Density Residential (see below for land use change criteria)	<p>These parcels are now below the Blue Line. They are developed with single family homes and do not currently have city water or wastewater services. The county zoning is Forestry. In alignment with the intent of the Blue Line amendments, staff is proposing this change to make these developed properties eligible for annexation and thereby city service provision. The intent is that they would not be eligible for additional development potential upon annexation.</p> <p>These parcels do not have a BVCP Land Use assigned and are recommended to be assigned Low Density Residential (see evaluation below).</p>

Current BVCP Planning Areas



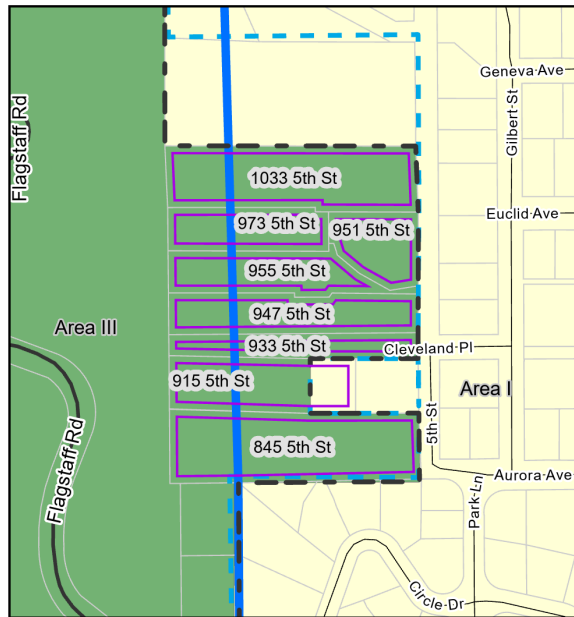
Proposed BVCP Planning Area Change



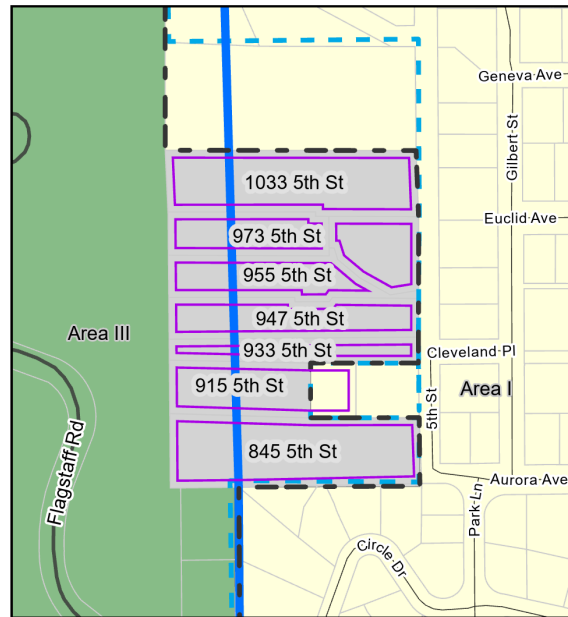
Description of Location for Service Area Expansions

Location	Recommendation	Comments
d. 845 5 th St. e. 915 5 th St. f. 933 5 th St. g. 947 5 th St. h. 951 5 th St. i. 955 5 th St. j. 973 5 th St. k. 1033 5 th St.	Change from Area III Rural Preservation to Area II	<p>These parcels have Low Density Residential BVCP Land Use. The county zoning is Forestry. They are developed with single family homes.</p> <p>Some of these parcels have city water, wastewater, and/or stormwater services.</p> <p>These parcels are now below the Blue Line. In alignment with the intent of the Blue Line amendments, staff is proposing this change to make these developed properties eligible for annexation and thereby city service provision. The intent is that these properties would not be eligible for additional development potential upon annexation.</p>

Current BVCP Planning Area



Proposed BVCP Planning Area Change

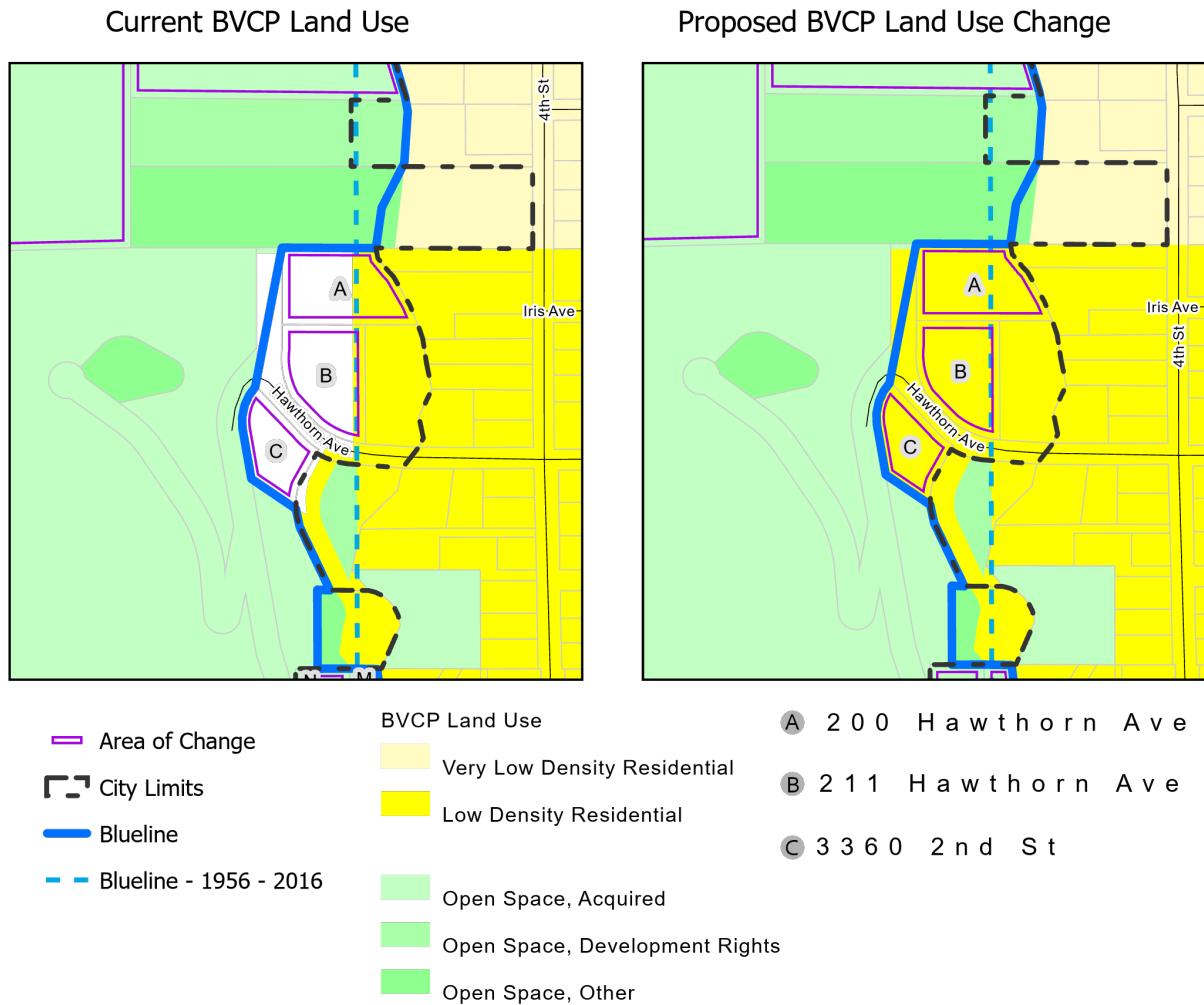


- Area of Change
- City Limits
- Blueline
- Blueline - 1956 - 2016

Boulder Valley Comprehensive Plan Areas

- Area I
- Area II
- Area III
- Area III Annex
- Area III Planning Reserve

Description of Location for Land Use Changes



NOTIFICATION AND COMMUNITY INPUT

An official letter was mailed to all affected property owners on Oct. 29, 2020. The letter provided information about the proposed changes, steps in the approval process, dates for the public hearings, and contact information for city staff.

Staff received phone calls from property owners with questions and feedback supporting preservation of the mountain backdrop, keeping the large lot, rural character of the area but also supportive of properties having the ability to receive city services if they don't already. Submitted letters are included attached to this report.

ANALYSIS

Revisions to the BVCP Area I, II, III Map are guided by the Amendment Procedures in Appendix B of the Boulder Valley Comprehensive Plan. Minor adjustments to the Service Area are intended to be

small, incremental changes to creates a more logical Service Area boundary. Changes in designation of land from Area III to Area II may be approved as a minor Service Area adjustment based on criteria listed in Sec. A.2.a.i of the BVCP Amendment Procedures and outlined below.

Minor Adjustment to the Service Area (Area III – Rural Preservation to Area II)

Applicability

- a. **Maximum size:** The total size of the area must be no larger than ten acres.
None of the proposed parcels are larger than 10 acres.
- b. **Minimum contiguity:** The area must have a minimum contiguity with the existing Service Area of at least 1/6 of the total perimeter of the area.
Each of the proposed properties has the minimum contiguity.

Criteria

- a. **Logical Service Area boundary:** The resulting Service Area boundary must provide a more logical Service Area boundary (Area III/II), as determined by factors such as more efficient service provision, a more identifiable edge to the urbanized area or neighborhood, a more functional boundary based on property ownership parcel lines or defining natural features.
These areas are adjacent to the city limits and were moved below the Blue Line in Nov. 2016, which means the property is now located in an area eligible to receive city water services. The properties are fully developed and adjacent to established residential neighborhoods. Inclusion in the Service Area would create a more logical Service Area boundary.
- b. **Compatibility with the surrounding area and the comprehensive plan:** The proposed change of Area III to II must be compatible with the surrounding area as well as on balance, the policies and overall intent of the comprehensive plan.
Changing the Planning Area designation for these properties is consistent with the surrounding area. The properties are fully developed and within the fabric of existing neighborhoods. The intention of the Blue Line change and the recommended planning area change are not intended to encourage redevelopment or allow additional development potential.

Several of these properties are included in the Boulder County View Protection Overlay District. The purpose of the district is to provide for reduced height in areas potentially affecting significant views. At the time of annexation application of the protections described in the district should be addressed.
- c. **No major negative impacts:** It must be demonstrated that no major negative impacts on transportation, environment, services, facilities, or budget will result from an expansion of the Service Area.
These parcels are fully developed. In conjunction with the intent of the 2016 Blue Line changes, additional policy language is proposed for Policy 1.16 Annexation to clarify the

intent to limit additional development capacity when and if these properties apply for annexation. See Attachment J Policy and Text changes.

- d. **Minimal effect on land use and growth projections:** The proposed change of Area III to II does not materially affect the land use and growth projections that were the basis of the Comprehensive Plan.
The Comprehensive Plan Land Use Designation Map categorizes these areas as Low Density Residential, so the existing state of the neighborhood is anticipated to stay the same in the future and will not materially affect the land use and growth projections of the BVCP.
- e. **Minimal effect on service provision:** The proposed change of Area III to II does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall Service Area of the City of Boulder.
The proposed changes to Area II will not affect the adequacy or availability of urban facilities and services to the immediate area or the overall Service Area. Several of the properties already are served by city water and/or sewer.
- f. **Minimal effect on the city's Capital Improvement Program:** The proposed Area III to II change does not materially affect the adopted Capital Improvement Program of the city of Boulder.
The proposed changes do not affect the adopted CIP.
- g. **Appropriate Timing:** The proposed Area III to II change will not prematurely open up development potential for land that logically should be considered as part of a larger Service Area expansion.
Timing for the proposed changes is appropriate and will not prematurely open up development potential for land that logically should be considered as part of a larger Service Area. These properties are substantially developed with single-family houses. This proposal is being made as a part of implementing the Blue Line changes that brought these properties below the Blue Line, indicating intent and eligibility to include the neighborhood in the Service Area boundary.

Land Use Map Changes

Several parcels (200 Hawthorne, 211 Hawthorne, and 3360 2nd Street) recommended for a service area change to Area II do not currently have a BVCP Land Use assigned. These are recommended to be assigned Low Density Residential similar to the nearby neighborhood.

Criteria:

To be eligible for a Land Use Map change, the proposed change:

- a) On balance, is consistent with the policies and overall intent of the comprehensive plan;
- b) Would not have significant cross-jurisdictional impacts that may affect residents, properties or facilities outside the city;
- c) Would not materially affect the land use and growth projections that were the basis of the comprehensive plan;
- d) Does not materially affect the adequacy or availability of urban facilities and services to the

- immediate area or to the overall service area of the City of Boulder;
- e) Would not materially affect the adopted Capital Improvements Program of the City of Boulder;
and
- f) Would not affect the Area II/Area III boundaries in the comprehensive plan.

Evaluation:

- a). On balance, is consistent with the policies and overall intent of the comprehensive plan;
These properties are fully developed as single family residences. The proposed land use designation aligns with the existing context and neighborhood.
- b) Would not have significant cross-jurisdictional impacts that may affect residents, properties or facilities outside the city;
No cross-jurisdictional impacts are anticipated from this change.
- c) Would not materially affect the land use and growth projections that were the basis of the comprehensive plan;
No effect on growth projections is anticipated from this change.
- d) Does not materially affect the adequacy or availability of urban facilities and services to the immediate area or to the overall service area of the City of Boulder;
No effect on urban facilities and services is anticipated from this change.
- e) Would not materially affect the adopted Capital Improvements Program of the City of Boulder;
No impact to the CIP is anticipated resulting from this change.
- f) Would not affect the Area II/Area III boundaries in the comprehensive plan.
The change would not affect the Area II/III boundaries.

Further Analysis Needed

There are several locations along the western edge of the city at Boulder Canyon where changes to the Blue Line will need further study to determine if changes to BVCP Land Use or Area I, II, III map would be recommended. Staff recommends delaying action in these areas until the next BVCP update to allow for further evaluation and analysis.

Boulder Planning Commission
% Ms. Jean Gatz
December 3, 2020

To Whom It May Concern,

Request:

I respectfully request that the Blue Line in the area just west of Aurora and Fifth Streets and extending north toward College retain the original 1959 Blue Line location. All properties in this small area, 9 lots, have water and sewer presently and have had for many years. My property is served under Ordinance No. 2244 adopted in 1959 and 3496 adopted in 1969, which allows mine and other properties in the area to connect to City Water and Sewer even though they were and are located above the Blue Line. The current residence at 915 Fifth Street is the only location without water and sewer.* The current owners, and the City, would like to extend services to this residence, and I surely have no objection. However, I would request that this change be enacted without changing the Blue Line for the remaining 8 residential lots.

The second issue, rezoning this specific area from Area III, rural to Area II seems to have no purpose, save encouraging further development. Moving from III to II is necessary for petitioning for annexation, but as far as I know none of us appears to have seen any reason to do so in the past, why do it now. Again, various underlying zoning implications for this area may have unintended consequences. This area was not broken; please don't try to fix it.

Alternative Solutions:

The one structure without either water or sewer could easily be provided such services either under an Ordinance such as Ordinance No. 3496 or by simply moving the Blue Line where it already juts west to accommodate the two Fifth Street lots that already reside within the City so that this additional structure can be annexed to the City. Either solution would provide water and sewer to the single structure in this area currently without water or sewer.

My Standing:

I am the owner of the property at 955 Fifth Street in unincorporated Boulder County. I originally purchased 951 Fifth Street with my husband, Robert Easton in 1972. We purchased 955 Fifth Street in 1978. When divorced in 1981, I became the owner of 955 Fifth and have maintained and used it since then. Although I have not lived at the property for many years, I and members of my family have visited and stayed at the property, with my daughter staying there just two years ago. I have maintained contact with my friends in the neighborhood and visit often.

Historic Background and Significance of this Area:

I am familiar with the history of the area, which is a rustic area within the Boulder County Forestry zoning classification on the edge of the City. With few exceptions, the structures that have been built in this small neighborhood during the time I have owned property there have retained the footprint of the original structures and its rustic character has been preserved.

This area was known as Snow Haven as four of the structures there were built by or for members of the Snow family. Charles Snow was the preeminent Boulder photographer during the 1930s, 40s, and 50s. His brother, Myron, was also a Boulder photographer. He worked with his brother, but was an artist in his own right with many of his photographs in galleries throughout the US. Gordon Snow, also a photographer with his father Charles, built his home just west of his parent's home. Myron Snow built his home just 100 feet to the south of my property. My property, 955 Fifth Street, has the original cabins that the Snow brothers, Charles and Myron, first built on the hillside.

When I first moved to the hillside there, the mailing address and neighborhood was simply known as Geneva Park. Everyone along Fifth Street where it changes to single lane collected their mail from boxes at Fifth and Aurora. We now have house numbers, but our mail still comes to our boxes. The houses were originally arranged so that no one's view is blocked by another house and almost everyone works hard to protect the natural hillside and blend into the mountain park. I hope that this desire to protect the area will be carried forward in the policies and restrictions and that this area of Boulder's history will be preserved.

In Sum:

The property owners in the area, the voters, and the City of Boulder have the intention of preserving the character of the neighborhood, the mountain backdrop, and Boulder's history. I am in complete agreement with these goals, and I respectfully request that the Blue Line along Fifth Street just below the Flagstaff Lookout not be moved from its original 1959 position and that the area containing these nine properties not be rezoned from Area III to Area II.

Moving the Blue Line to the new proposed location and placing the structures to the EAST of the blue line opens the area to development and the destruction of an historic area of Boulder. Rezoning the area from III to II simply compounds the risks.

Thank you for your consideration,

Tamara McGehee

Tamara McGehee
955 Fifth Street

tam@mcgehee.info

Hi Jean,

I understood from my attorney that you wondered what my interest was in this issue surrounding the Blue Line. I actually thought it would be clear from the letter I submitted to the Planning Commission through you. I simply love the hillside and my property there and have since I first saw it and bought it some 40 years ago.

I will assure you there is no hidden or alternative motive. I have lived in Wisconsin, Rhode Island, Colorado, and Minnesota—but my heart remains on that hillside that I first saw in 1971. I was prepared to return to Rhode Island after living in a rental home east of town. While driving looking to see if there was any place in Boulder I could be happy, I spotted what is now 951 Fifth Street. Months later when we were ready to purchase a home, by a miracle it was on the market and advertised in the paper. I called, went that day, and signed a contract. At that point I didn't know anything about water, sewer, Torrens, nothing. The years I spent there were some of my happiest, working at the University, walking to and from work, and having the best life teacher in the world, Myron Snow, to visit with every day.

Life changes, and Myron died in 1978. I left my husband and in 1981 we divided our property which was 955 and 951. He wanted to keep 951 and since I planned to remarry and remain in Minnesota, it seemed reasonable that I would keep the rental properties located on 955. (This property is grandfathered rental property stated so in a letter from Boulder County Planning.) The property has been used by my family for several extended periods as well as for very long-term rental. It has been rental property since before the Blue Line.

I did remarry and moved to Minnesota. However I never let go of a place on that hillside. At one point, when visiting former neighbors Ken and Carlen Penfold, they offered me their home as they had decided it was time to move to a townhome near the golf course. I had always loved them and their home and was anxious to make the exchange for my rental cabins. I accepted their proposal and put my property under contract to Larry Gold. (If you wish you can find that the County refused to allow Mr. Gold to build a 4500 sf home on my site.) At that point, I was forced to ask Ken and Carlen Penfold to allow Larry to take my place on the contract. They agreed and Larry built a very beautiful home on that site. I salvaged Carlen's kitchen cabinets and dining room fixture and put them in my "cabins."

Some years later, Myron's family offered his home to me. I wanted to make an exchange, but by this time I had lived at 955 Fifth with my new husband and young daughter. They did not want to give up the spot they had grown to love and did not share my history with Myron. Hence I stayed at 955 Fifth.

This is all to tell you that I and my family all love this property. I love it for my long history on the hillside and wonderful memories of many neighborhood friends. My family loves this spot for the amazing years and time there as a family living in the “cabins.” My daughter spent much of her time in exploration up the fault behind the cabins and observing the amazing bloom of cicadas one spring. We entertained a wood rat in our cabin every evening when he came for a slice of nut bread. Given this, it was no surprise when my daughter asked for and has been given the property after my death. Although she is young, with her Ph.D. and M.D., she will likely be able to live there if she chooses, and she is keeping that in mind.

As for me, I grew up in a Nature Refuge in Wisconsin. The open space behind me there in Boulder, the rural feel, and the ability to live more simply and naturally is what I love. My home in Minnesota, while in the city, is near the University agricultural fields where I walk daily. My $\frac{3}{4}$ acre lot has been transformed by my hard work over the years to a native planting wildlife haven where I am able to have occasional deer, turkeys, coyotes, raccoons, opossums, along with the other usual city animals. I have paid special attention to planting for pollinators and birds as I was a wildlife rehabilitator for many years. I have fought battles here to protect wildlife, decrease impervious surfaces, reduce storm water runoff, and limit the spraying of chemicals on public parks, playgrounds, and school grounds. But this city lot pales in comparison to 955 Fifth and Geneva Park.

Boulder believes in what I believe—open space, harmony with nature, and environmental stewardship. My little spot on that hillside is so very precious to me. It has so much to offer and so many ways to heal and to grow that I want to be sure that it is cherished and protected by the City and the County. This is the only reason I am concerned about the changes. I get at least one contact every couple of months from developers and speculators wanting to buy my property. I will not sell to them nor will my daughter, unless by mistake or accident the lots in this area are allowed to become sites for large glass houses whose widows kill and maim birds, whose cats prey on the wildlife, whose dogs chase the deer, and whose residents move only from the inside of their “built environment” to their cars to go elsewhere.

I have seen such changes below me to the east, just streets away—lovely homes belonging to friends and neighbors that have passed, their homes purchased, destroyed, and replaced by manicured property with large homes. Many of these lost homes, too, had that natural, rural feel I so value, but I understand change. I understand cities. These fancy houses on small, manicured lots are fine for the city, but this area where I am lucky enough to have a home now is not city—that is what I love about it and why I want to be sure it is protected and doesn’t become city.

Now, as to your real question: why my attorney contacted you and why I have an attorney. It is because there was a problem with the title to the 955 Fifth property that I accepted from my husband when we divorced. The problem was discovered during a routine survey nearly three years ago. I brought the problem to the County because it involves a very small parcel of land that the County believes I own, that I believe I own, that my ex-husband believes I own, and for which I have paid taxes for some 25 years. Unfortunately someone else believes they own it. The County instructed me to obtain an attorney to resolve the issue and remove the "cloud" from my title. As I did not intend to leave my daughter with a problem when she inherits, I have followed and am following the advice of the County on this issue. Mr. Richard Hill is my attorney for this problem. Since I live in Minnesota and he lives in Denver it seemed natural that I contacted him when I was concerned about the potential changes to my immediate area by the Blue Line shift.

Tam